



Security Council

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Letter dated 23 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 2 December 2003 (S/2003/1151). The Counter-Terrorism Committee has received the attached fourth report from Mauritius submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) **Inocencio F. Arias**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism



Annex

Letter dated 23 February 2004 from the Permanent Representative of Mauritius to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

We refer to the letter, dated 21 November 2003, from the Chairman of the Counter-Terrorism Committee pursuant to the third report of the Government of the Republic of Mauritius.

In this context, we have the honour to submit herewith the reply of the Government of the Republic of Mauritius (see enclosure).

(Signed) A. Hurree
for Head of Mission

Enclosure*

Reply pursuant to Letter 3 from the UNSC Counter-Terrorism Committee

Implementation Measures

Introduction

In its Third Report on the implementation of measures contained in UNSC Resolution 1373(2001), the Republic of Mauritius informed the Counter-Terrorism Committee of the enactment of the Prevention of Terrorism Act (POTA) 2002, the Financial Intelligence and Anti-Money Laundering Act 2002(FIAMLTA), the Prevention of Corruption Act 2002 (POCA) and the Prevention of Terrorism (Special Measures) Regulations 2003 which came into operation on 25 January 2003.

The Government of Mauritius in its resolve to address terrorism in all its forms and manifestations in fulfillment of its commitment to implementing UNSC Resolution 1373(2001) adopted the following:

- The Prevention of Terrorism (Special Measures)(Amendment) Regulations which came into effect on 19 March 2003;
- The Financial Intelligence and Anti-Money Laundering Regulations 2003 were made on 19 June 2003 and came into effect on 21 June 2003;
- The Anti-Money Laundering (Miscellaneous Provisions) Act, which was passed in August 2003; and
- The Convention for the Suppression of Financing of Terrorism Act 2003. It was passed in August 2003 and came into operation on 22 November 2003.

The Republic of Mauritius:

- (i) acceded to the UN Convention for the Suppression of Terrorist Bombings on 24 January 2003;
- (ii) ratified the UN Convention Against Transnational Organized Crime on 18 April 2003; and
- (iii) acceded to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents on 24 September 2003.

On the regional front, Mauritius acceded to the OAU Algiers Convention on the Prevention and Combating of Terrorism on 21 February 2003 and is actively participating in the negotiations that would lead to the adoption of a Protocol to the Algiers Convention and a Plan of Action and a Code of Conduct on Terrorism.

* Annexes are on file with the Secretariat and are available for consultation.

The Prevention of Terrorism (Special Measures) Regulations 2003¹

The Prevention of Terrorism (Special Measures) Regulations 2003, which came into effect on 25 January 2003, provide for the freezing of assets and funds of suspected international terrorists and terrorist groups pursuant to Part II section 10(6) of the POTAR. Regulation 3 makes provision for the Central Bank, or the Financial Services Commission, to give directives to financial institutions under its regulatory authority to freeze any account, property or funds held on behalf of any listed terrorist by those institutions and cash dealers. Regulations 7 and 8 clearly list the offences purporting to freeze funds, financial assets or economic resources that are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any person within the territory of Mauritius.

The Financial Intelligence and Anti-Money Laundering Regulations 2003²

The Financial Intelligence and Anti-Money Laundering Regulations 2003 were made on 19 June 2003. The Regulations provide for the verification of the true identity of customers and other persons with whom banks, financial institutions and cash dealers conduct transactions and reinforce the framework that was existing in the Banking Act.

The Anti-Money Laundering (Miscellaneous Provisions) Act 2003³

The main object of the Act was to amend the Financial Intelligence and Anti-Money Laundering Act 2002 to provide in effect for the formal setting up of the National Commission for Anti-Money Laundering and Combating of the Financing of Terrorism and the replacement of the Review Committee of the Financial Intelligence Unit (FIU) by a Board. Under this Act, the Financial Intelligence Unit is, moreover, empowered to issue guidelines to financial institutions, cash dealers and Members of the relevant professions or occupations on the manner in which they should submit Suspicious Transaction Reports (STRs) to the FIU. Moreover, through this Act, the Bank of Mauritius and the Financial Services Commission are empowered to issue codes and guidelines on anti-money laundering and the combating of financing of terrorism and to enforce compliance with those codes and guidelines. A derogation from the duty of confidentiality is provided for banks to allow them to report suspicious transactions and supply information relating to a reported suspicious transaction to the FIU. Similarly, through this Act, the Bank of Mauritius and the Financial Services Commission are allowed to refer information suggesting a possible money-laundering offence or a suspicious transaction to the FIU. The Director of the FIU is also given the power to request further information relating to a reported suspicious transaction.

¹ Please see annex 1

² Please see annex 2

³ Please see annex 3

The Convention for the Suppression of Financing of Terrorism Act 2003⁴

On 11 November 2001 the Government of Mauritius signed the International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly of the United Nations in 1999. Mauritius upgraded its domestic legislation to give force of law to the International Convention for the Suppression of the Financing of Terrorism and to provide for matters ancillary thereto. To this effect, the Convention for the Suppression of the Financing of Terrorism Act was passed in August 2003 and came into operation on 22 November 2003.

Effectiveness in the protection of the financial system

1.1 *The third report from Mauritius states (at page 3) that the Financial Intelligence Unit (FIU) became operational in December 2002. The CTC would be pleased to receive a description of the structure, staffing levels and powers of the FIU. Please provide data concerning the requirements referred to immediately above.*

Please see Annex 5

1.2 *The third report also states (at page 3) that the Anti-Money Laundering Act 2002 (FIAMLA) was proclaimed on 10 June 2002. Effective implementation of paragraph 1 of the Resolution requires that financial institutions and other intermediaries (for example, lawyers, notaries and accountants, when engaged in brokering activities, as distinct from the provision of professional advice) should be under a legal obligation to report suspicious transactions. The CTC would appreciate receiving a list of the persons and entities required under current legislation to report suspicious transactions. The CTC would also appreciate being informed about the penalties for non-compliance with the obligation to report suspicious transactions. Please provide information to the CTC indicating the number of:*

- *Suspicious Transaction Reports (STRs) received by the FIU, and*
- *Any administrative or penal sanctions imposed for failure to comply with such reporting obligations.*

Section 14 of the Financial Intelligence and Anti Money-Laundering Act 2002⁵ (FIAMLA) stipulates that banks, financial institutions, cash dealers and members of the relevant professions or occupations have the obligation to make a Suspicion Transaction

⁴ Please see Annex 4

⁵ The Financial Intelligence and Anti-Money Laundering Act 2002 can be consulted at the following website: <http://ncb.intnet.mu/medrc/index.htm>

Report (STR) to the Financial Intelligence Unit on any transaction which they have a reason to believe is a suspicious transaction.

The Financial Intelligence Unit (FIU) has issued a Guidance Note⁶ which is in force since 30 January 2003 on STR (Suspicious Transaction Report – Guidance Note 1(2003). This Guidance Note is intended for reporting institutions/persons. It establishes how to identify a suspicious transaction, particularly providing for indicators relating to terrorist activity financing. The Guidance Note lists down the reporting institutions/persons who are required to report suspicious transactions to the FIU, namely:

- Financial institutions as defined under the Financial Intelligence and Anti-Money Laundering Act 2002;
- Category 1 and Category 2 banks;
- Life insurance Companies, Brokers and Agents;
- Securities Dealers, including Portfolio Managers and Investments Counsellors;
- Persons or Entities engaged in the business of foreign exchange dealing;
- Accountants, Accounting Firms and Chartered Secretaries (when carrying out certain activities on behalf of their clients);
- Casinos (including those authorized to do business in Mauritius, with a slot machine or roulette or card games), bookmakers or totalisators under the Gaming Act;
- Barrister, Attorney-at-Law, Notary and Legal Firms (when carrying out certain activities on behalf of their clients);
- Others: These include Real Estate Brokers or Sales Representatives (when carrying out certain activities on behalf of their clients), or Mauritius Post Office for money orders.

The penalty for non-compliance with the reporting of suspicious transactions is a fine not exceeding one million rupees and imprisonment for a term not exceeding 5 years.

Under section 15 of the FIAMLA, every report lodged with the Financial Intelligence Unit has to include the following:

- The identification of the party or parties to the transaction;
- The amount of the transaction, the description of the nature of the transaction and all the circumstances giving rise to the suspicion;
- The business relationship of the suspect to the bank, financial institution, cash dealer or member of relevant profession or occupation, as the case may be;
- Where the suspect is an insider, any information as to whether the suspect is still affiliated to the bank, financial institution, cash dealer or member of the relevant profession or occupation as the case may be
- Any voluntary statement as to the origin, source or destination of the proceeds;
- The impact of the suspicious activity on the financial soundness of the reporting institution or persons; and
- The names of all officers, employees or agents dealing with the transaction.

⁶ Please see Annex 6

The Financial Intelligence Unit has therefore devised a Form⁷ for the afore-mentioned persons/institutions to report a person/entity if they have reason to suspect that a transaction is related to money-laundering, proceeds of any crime or financing of activities related to terrorism.

Suspicious Transactions Reports (STRs) are dealt with diligently by the FIU, which investigates and updates the files and prepares intelligence reports. A Seminar was organized by the Financial Intelligence Unit on 28 May 2003 where relevant stakeholders were explained through a case study how STRs are reviewed and evaluated.

As at the end of December 2003, the FIU had received 175 STRs mainly from banks and Management Companies. It may be noted that 14 of these STRs were received from investigatory bodies and 4 from supervisory bodies. (Please see Annex 5.)

Please note that the Financial Intelligence Unit has been officially admitted as a Member of the EGMONT Group of FIUs on 23rd July 2003 and Mauritius is the Regional Representative of African FIUs on the EGMONT Committee.

1.3 Sub-paragraph 1 (c) of the Resolution requires States to freeze funds and other financial or economic resources related to terrorism. In this regard, does Mauritius have a separate authority or agency responsible for seizing and confiscating terrorist related assets? The CTC would appreciate receiving an outline of the legal basis for the establishment of such an authority or agency, as well as an outline of its functions. The CTC would also welcome an account of the legal provisions providing for the review of decisions taken by such an authority or agency.

Mauritius does not have a separate authority or agency responsible for seizing and confiscating terrorist related assets.

Section 4 (4) of the Convention for the Suppression of Financing of Terrorism Act 2003 provides for the Court to order the forfeiture of funds which were, or intended to be, used for, or in connection with, the offence or funds which constitute the proceeds of the offence.

Section 5 of the Convention for the Suppression of Financing of Terrorism Act 2003 provides for the Judge in Chambers, if satisfied on an *ex-parte* application made by the Commissioner of Police, that there are reasonable grounds to believe that there is any building, place, or vessel, any property in respect of which an order of forfeiture may be made to issue a warrant authorising a police officer to search the said building, property, place or vessel and to seize that property if found, and any other property which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 6 of the Act. The Judge may also issue a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order.

⁷ Please see Annex 7

On an application the Judge in Chambers may, where the circumstances so require, appoint the Official Receiver, or any other suitable person to take control of, manage or otherwise deal, with the whole or a part of the property, in accordance with the directions of the Judge.

The Judge in Chambers may require any person having possession of the said property to give possession thereof to the person appointed by him/her. Before the person appointed by the Judge destroys any property referred to above, he shall apply to the Judge in Chambers for a destruction order.

The Commissioner of Police may make an application to a Judge in Chambers for an order of Forfeiture in respect of terrorist property. Notice of an application order is to be given to the respondents in such a manner as the Judge may direct.

It is to be noted that before making an order for forfeiture of funds, the Court shall give every person appearing to have an interest in the funds, an opportunity of being heard.

Funds forfeited to the State shall vest in the State if no appeal is made against the forfeiture within a period of time allowed for appeal and if an appeal has been made against the order, on the final determination of the appeal.

However as provided for under section 6(9) of the Suppression of Financing of Terrorism Act 2003, pending the determination of an appeal against an order of forfeiture, property restrained shall continue to be restrained, and property seized under a warrant shall continue to be detained, and any person appointed to manage, control, or otherwise deal with the property shall continue in that capacity.

In addition, it is to be pointed out that the Regulation Number 3 of the Prevention of Terrorism (Special Measures) Regulations 2003, provides for the Central Bank or the Financial Services Commission, upon publication of a declaration in the Gazette under section 10(7) of POTA 2002, to direct that any account, property or funds held by financial institutions under its regulatory authority on behalf of any listed terrorist organisation to be frozen and report to be made to it in such form and manner as it deems fit. However, on a report being made on this matter it is further referred to the Commissioner of Police for investigation and seizure and confiscation of terrorist-related assets.

1.4 The CTC would appreciate receiving up to date information about the number of cases in which financial assets have been frozen, as well as the number of individuals or entities whose property has been frozen, because of suspected connections with the financing of terrorism.

None

1.5 Sub-paragraph 1 (d) of the Resolution requires States to have legal measures in place to regulate alternative money remittance agencies/transfer services. The second report from Mauritius states (at page 7) that "money changers and foreign exchange dealers are regulated under the Foreign Exchange Dealers Act 1995". Please outline the legal provisions which are in force in Mauritius with a view to regulating alternative money remittance agencies, transfer services. Can alternative money remittance agencies/transfer services conduct business in Mauritius without being registered or licensed?

There are no alternative money remittance agencies/transfer services in Mauritius. All money remittance agencies in Mauritius are regulated and comprise the formal and official channels namely, banks and foreign Exchange dealers

Alternative money remittance agencies are prohibited in Mauritius. It is an offence under Mauritian law for persons including corporates to conduct banking business on foreign exchange dealers business without a licence from the regulator i.e. the Bank of Mauritius.

Section 3(2) of the Banking Act 1988⁸ provides that no person shall transact any category 1 and category 2 banking in Mauritius without a licence from the Central Bank. Section 12(1) provides that no category 1 banking and category 2 banking shall be transacted except by a bank. Section 13 provides for the examination of books, records and accounts by the Central Bank in cases of suspected unlicensed banking. Section 13A(1) prohibits the business of deposit-taking without the written authorization of the Central Bank.

Section 3(1) of the Foreign Exchange Dealers Act 1995⁹ provides for specified types of legal persons to carry out the business of a foreign exchange dealer or a money-changer if they obtain the authorization of the Minister to whom responsibility for the subject of finance is assigned.

Furthermore, with the exception of certain exempt transactions, any person who makes or accepts any payment in cash in excess of Rs 350,000 (approximately US\$ 10,000) be it through the banking channel or otherwise, shall, under the Financial Intelligence and Anti-Money Laundering Act 2002, commit an offence in Mauritius.

Regulations made by the Minister under the Financial Intelligence and Anti-Money Laundering Act proscribe the opening of anonymous or fictitious accounts in Mauritius. Furthermore, proper identification of customers and record keeping are required.

Accordingly there cannot be any money transmission agencies/transfer services of any nature in Mauritius, without a licence.

⁸ The Banking Act 1988 can be consulted at the following website:
<http://bom.intnet.mu>

⁹ The Foreign Exchange Dealers Act 1995 can be consulted at the following website :<http://bom.intnet.mu>

Effectiveness of counter terrorism machinery

1.6 *The CTC would appreciate receiving a progress report and an outline of the new Bill that "will explicitly and more clearly deal with" the requirements of sub-paragraph 2(d) and (e) of the Resolution, as mentioned in Mauritius third report.*

The Convention for the Suppression of Financing of Terrorism Act 2003 has been enacted in August 2003 and entered into operation on 22 November 2003. See Annex 4

The Act makes it an offence for any person who finances acts of terrorism or is involved in offences under the Prevention of Terrorism Act 2002 and offences under the Civil Aviation (Hijacking and other Offences) Act. The Convention for the Suppression of the Financing of Terrorism Act 2003 provides in section 4 that it is not necessary that the funds were actually used to carry out the offence.

The Court before which a person is convicted of an offence in relation to the financing of terrorism may, in addition to any penalty imposed by the Court, order the forfeiture of funds which:

- (a) were, or intended to be, used for, in connection with, the offence; or
- (b) constitute the proceeds of the offence.

Further, where the Judge in Chambers is satisfied, on an ex parte application made by the Commissioner of Police, that there are reasonable grounds to believe that there is any building, place or vessel, any property in respect of which an order of forfeiture may be made, the judge may issue a warrant authorising the police to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which the police officer believes, on reasonable grounds that an order of forfeiture may be made by the Judge.

Jurisdiction: A Mauritian Court has jurisdiction to try an offence under 'The Convention for the Suppression of the Financing of Terrorism Act 2003' in every case where the act constituting an offence:

- (a) is committed in Mauritius;
- (b) is committed on board a vessel or aircraft registered in Mauritius;
- (c) is committed by a national of Mauritius, whether the act constituting the offence is committed within or outside, Mauritius;
- (d) is committed by a person who is, after the commission of the act, present in Mauritius whether the act constituting the offence is committed within or outside Mauritius and he cannot be extradited to a foreign state having jurisdiction over the offence.

It is to be noted that the offence of financing acts of terrorism is an extraditable offence.

1.7 The CTC would be grateful for information concerning the number of persons prosecuted in Mauritius for:

- terrorist activities,
- activities related to the financing of terrorism,
- recruitment for terrorism,
- other activities providing support for terrorists or terrorist organisations.

How many of the persons, referred to above, have been prosecuted for inviting support (including recruitment) for:

- proscribed organisations; and
- other terrorist groups or organisations?

There has been no prosecution against any person so far for terrorist activities, activities related to the financing of terrorism, recruitment for terrorism and other activities providing support for terrorists or terrorist organisations. No person in Mauritius has been prosecuted for inviting support for proscribed organisations and other terrorist groups or organisations.

1.8 Sub-paragraph 2 (e) requires that terrorists and their supporters be brought to justice. In that regard, the CTC would be grateful for an outline of any legislation enabling the use of special investigative techniques in the fight against terrorism, for example, undercover police operations, controlled deliveries and the monitoring and/or the interception of communications (such as the internet, radio, audio-visual media and other advanced communications techniques).

Section 25 of the Prevention Against Terrorism Act 2002 provides that the Minister responsible for the subject of national security may, for the purposes of the prevention or detection of offences, or the prosecution of offences under the Prevention of Terrorism Act 2002, give such directions as appear to him necessary, to communication service providers. The direction given shall specify the maximum period for which a communication service provider may be required to retain communication data.

Furthermore, the police may apply to the Judge in Chambers for an order authorising a public operator, or any of its employees or agents, to intercept, withhold or disclose to the police, an information or communication message, including a telecommunication message.

1.9 In order to bring terrorist and their supporters to justice, as required by sub-paragraph 2 (e), it is necessary that members of the judiciary, law enforcement and witnesses conduct their duty unobstructed. In that regard could Mauritius outline legislation and programs in place, without compromising any sensitive information, to protect members of the judiciary, law enforcement officers, witnesses and persons willing to provide information, from intimidation and injury by terrorists?

It is to be noted that there is no specific legal provision dealing with the issue of protection of members of the judiciary, law enforcement officers, witnesses and persons willing to provide information, from intimidation and injury by terrorists.

However, there are regulations which allow the Commissioner of Police to provide protection to any person who reasonably believes that he may be subject to intimidation or injury.

1.10 The CTC notes from the supplementary report (at page 4) that the Prevention of Terrorism Act (POTA) 2002 provides for the proscription of organisations engaged in terrorism. It also notes that the Act provides for the designation as an international terrorist group of any organisation so listed by the United Nations Security Council or the Council of the European Union. Please outline the procedures in place to proscribe a terrorist organisation at the request of another State.

The application to declare an entity to be a proscribed organisation is made before the Judge in Chambers. An order granted by the Judge is published in the Government Gazette, in two daily newspapers and at such other places, as the Judge in Chambers determines.

1.11 In regard to sub-paragraph 3 (d) which calls on States to become parties to the relevant a further progress report on the ratification of or accession to the 12 international instruments related to terrorism to which Mauritius is not yet a party and the implementation into Mauritian Law of the instruments to which it is a party.

Status of Signature and Ratification/Accession to the 12 International Instruments related to Terrorism are attached herewith. *See Annex 8*

Effectiveness of customs, immigration and border control

1.12 Effective implementation of paragraphs 1 and 2 of the Resolution requires effective customs and border controls to prevent and suppress the financing of terrorist activities. Does Mauritius impose controls on the cross-border movement of liquid cash, negotiable instruments, precious stones and metals? For example, does Mauritius impose an obligation to make a declaration or to obtain prior authorisation before any such movement takes place? Please provide information concerning any relevant monetary or financial thresholds.

There is no foreign exchange control in Mauritius.

Section 35 of the Consumer Protection (Price and Supplies Control) Act¹⁰ provides that the Minister to whom responsibility for consumer protection is assigned may make such regulations as he deems fit for the purposes of the Act and for the purposes of regulating trade, supply and prices. Import and Export of rough diamonds are subjected to the Kimberley Process Certification which is issued by the Ministry of Commerce and Co-operatives.

Accordingly, the Minister has, by virtue of powers vested in him, under the Consumer Protection (Price and Supplies Control) Act made regulations requiring licence for the import and export of gold and diamonds. Under the Consumer Protection (Control of Imports) (Amendment No 4) Regulations 2003¹¹, rough diamonds imported directly or indirectly from Sierra Leone are now prohibited goods in Mauritius. Similarly, under the Consumer Protection (Control of Imports) Regulations 2002¹², diamonds including rough ones originating from Liberia are prohibited goods.

Mauritius is party to the Kimberley Process Certification Scheme.

Furthermore, under the Customs Act¹³, customs officers are empowered to arrest persons involved in the commission of smuggling, importing and exporting of prohibited goods, which are criminal offences in Mauritius. Those powers are also conferred upon police officers under the Police Act¹⁴.

1.13 Paragraph 2 of the Resolution also requires States to prevent the movement of terrorists and the establishment of safe havens. With regard to the implementation of sub-paragraphs 2 (c) and (g) of the Resolution, the CTC would appreciate receiving information as to whether Mauritius has established any procedure for supplying advance information concerning international cargo and passengers to its relevant authorities, as well as to those of other States, with a view to enabling the authorities in question to screen for prohibited cargo and suspected terrorists before disembarkation.

Section (49) of the Customs Act 1988 provides for submission of information concerning International Cargo and passengers as follows:

(a) In the case of a ship:

- arriving from the neighbouring Reunion Island, not later than 5 hours before arrival; and
- arriving from any other part, not later than 24 hours before arrival

¹⁰ The Consumer Protection (Price and Supplies Control) Act 1998 can be consulted at the following website : <http://www.gov.mu.acts.htm>

¹¹ Please see Annex 9(i)

¹² Please see Annex 9(ii)

¹³ Please see Annex 10

¹⁴ Please see Annex 11

(b) In the case of an Aircraft:

- arriving from Reunion island, upon arrival ; and
- arriving from any other airport, not later than one hour before arrival.

The Immigration Act¹⁵ regulates the entry and stay of non-citizens in Mauritius. The Act provides for the establishment of the list of prohibited immigrants who shall not be admitted to Mauritius. "Prohibited Immigrants" include persons who are involved in criminal activities, engaged in drug trafficking, or reasonably suspected to be engaged in any subversive activity of any kind directed against Mauritius or detrimental to the security of Mauritius or any friendly State. It also provides for the issue of residence permits and refusal of admission to Mauritius and prevention of unauthorised disembarkation, and for powers to inspect vessels, to examine passengers and members of the crew and for detention for the purpose of being removed from Mauritius. No provision for asylum is made in the Act. In fact, Section 8 of the Immigration Act has been amended by the Prevention of Terrorism Act to include non-citizens who are declared suspected international terrorists as prohibited Immigrants.

Under Section 10(6)(b) of the Prevention of Terrorism Act 2002 , the Minister to whom responsibility for the subject of national security is assigned may, with respect to any suspected international terrorist or an international terrorist group, make regulations to provide for the prevention of his or its entry into , or transit in Mauritius.

1.14 *Please outline the legal provisions and other procedures in place which govern the acquisition of Mauritian citizenship and passport.*

Acquisition of Mauritian Citizenship

The legislation that govern citizenship issues for the Republic of Mauritius are:

- (i) The Constitution of the Republic of Mauritius (Chapter III)¹⁶;
- (ii) The Mauritius Citizenship Act¹⁷.

The Constitution spells out conditions under which persons who are born in or outside Mauritius shall become a citizen of Mauritius.

Additionally, the Mauritius Citizenship Act provides for registration of Commonwealth citizens, minor children and other persons such as spouses of Mauritians, as citizens of Mauritius. Other sections of this legislation deal with naturalisation and resumption of Mauritian citizenship by persons who have lost their nationality.

The criteria for grant of Mauritian citizenship under these clauses are clearly specified under the law.

¹⁵ The Immigration Act can be consulted at the following website : <http://www.gov.mu/acts.htm>

¹⁶ Please see Annex 12

¹⁷ Please see Annex 13

Acquisition of Mauritian Passport

The issue of passports to citizens of Mauritius is governed by the Passports Act and the Regulations made under the Act¹⁸. A passport is issued by the Passport and Immigration Office to a citizen of Mauritius who has to satisfy conditions relating to his nationality and his identity. A Mauritian passport is, unless otherwise stated, valid for a period of ten years. Every passport is issued on the following conditions:

- (i) it will remain the property of the Government of Mauritius; and
- (ii) it may be withheld or withdrawn at any time by the Passport and Immigration Officer.

Effectiveness of controls preventing access to weapons by terrorists

1.15 Sub-paragraph 2 (a) of the Resolution requires each Member State, inter-alia, to have in place appropriate mechanisms to control and deny terrorists access to weapons. The second report from Mauritius states (at page 8) that "the Firearms Act is being reviewed to be more comprehensive and to call for more stringent measures". The CTC would welcome a progress report on the adoption of the aforementioned legislation. Has Mauritius established a national reporting or auditing procedure to detect the loss or theft of hazardous materials, such as radiological, chemical and biological substances, together with their waste products, from government or private sources?

Work on the amendment of the **Firearms Act** is progressing. The Act is being reviewed, *inter alia*, to incorporate our obligations under the following Protocols of which Mauritius is signatory:

- (i) United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its Aspects;
- (ii) Bamako Declaration on an African Common Position on the illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons – 1 December 2000;
- (iii) Protocol against the illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime; and
- (iv) Protocol on the Control of Firearms, Ammunition and other related materials in the Southern African Development Community (SADC) Region (signed on 14 August 2001 in Blantyre, Malawi).

It is to be noted that although Mauritius does not produce any weapon or ammunition, the following legislation are in place:

- (i) the Explosives Act¹⁹;
- (ii) the Firearms Act²⁰;

¹⁸ Please see Annex 14

¹⁹ Please see Annex 15

²⁰ Please see Annex 16

- (iii) the Prevention of Terrorism Act and the Prevention of Terrorism (Special Measures) Regulations; and
- (iv) the Chemical Weapons Convention Act²¹.

Under the **Explosives Act** and the **Firearms Act**, a permit is required before importing items under the established arms embargo. Such a permit is to be issued by the Commissioner of Police further to the latter's satisfaction that the requirements under existing laws are respected.

Under the Prevention of Terrorism Act, there are strict restrictions and severe penalties for persons furnishing terrorists, terrorist organizations and other individuals, groups, undertakings and entities associated with such goods.

Regulation 9 of the Prevention of Terrorism (Special Measures) Regulations 2003 provides that no person shall, directly or indirectly, export, sell, supply or ship any arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related material to any listed terrorist.

Regulation 10 of the Prevention of Terrorism (Special Measures) Regulations 2003 provides that no owner or master of a Mauritius ship and no operator of an aircraft registered in Mauritius shall, directly or indirectly, carry or cause or permit to be carried any arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related materials for any listed terrorist.

Regulation 11 of the Prevention of Terrorism (Special Measures) Regulations 2003 provides that no person shall directly or indirectly provide any listed terrorist with technical advice, assistance or training related to military activities.

Under Regulation 12 of the Prevention of Terrorism (Special Measures) Regulations 2003, it is an offence to contravene these Regulations.

Mauritius has implemented new legislation, namely the Chemical Weapons Convention Act since 7 May 2003 to enhance our control on the development, production, stockpiling and use of chemical weapons, their precursors and chemicals which could be used for the making of chemical weapons. This Act has strict provisions dealing with the trafficking of arms and chemical weapons. This Act came into effect on 16 February 2004.

Cases of theft of hazardous materials are handled by the Criminal Branch of the Police, assisted by Forensic Officers. Special attention is given to such cases.

1.16 The CTC is aware that Mauritius may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organisations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Mauritius's response to these matters as well as details of any efforts to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.

²¹ Please see Annex 17

A copy of the Report of the Financial Sector Assessment Programme (FSAP) of the World Bank/IMF on Observance of Standards and Codes is at Annex 18.

Assistance and Guidance

- 2.1 *The CTC wishes to emphasise once more the importance which it attaches to the provision of assistance and advice in connection with the implementation of Resolution 1373. The Committee is therefore anxious to maintain and develop the constructive dialogue which it is already engaged in with Mauritius in relation to this priority area.***

Mauritius is willing to provide assistance to other States to help them implement the measures contained in the UNSC resolutions.

Contacts with the Commonwealth Secretariat have indicated that the Prevention of Terrorism Act 2002 could serve as a model legislation that could be adopted by other States in the combating of terrorism. The Republic of Mauritius would be pleased to share its expertise acquired in the drafting of appropriate legislation and regulations with other States. Mauritius may also provide the services of resource persons for international and regional workshops relating to the combating of terrorism. Copies of current legislation and current regulations could be made available to interested States.

The Passport and Immigration Office has stressed the need for the training of its personnel in immigration control and has expressed the wish to obtain sophisticated equipment for the verification of travel documents.

- 2.2 *As regards Mauritius' request for assistance to the CTC, the CTC's Technical Assistance Team is seeking a donor country or institution which is in a position to provide assistance. The CTC also notes that its Technical Assistance Team has met with a representative of the Government of Mauritius to discuss potential sources of assistance and advice.***
- 2.3 *Further, should the Government of Mauritius have the need for assistance or guidance in the area of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT), the CTC draws the Government's attention to the IMF/World Bank joint AML/CFT programme. In particular, such assistance or guidance may include the drafting of legislation relating to AML/CFT, including the review of already drafted or adopted legislation for compliance.***
- 2.4 *If the Government of Mauritius feels that it could benefit from discussing aspects of the implementation of the Resolution with the CTC's experts, it is welcome to contact them as mentioned in paragraph 3.1 below.***

- 2.5** *At this stage of its work, the CTC will focus on requests for assistance that relate to Stages "A" and "B" matters. However, the assistance to be provided by one State to another on any aspect of the implementation of the Resolution is a matter for agreement between them. The CTC would be grateful to be kept informed of any such arrangements and on their outcome.*

Submission of further report

- 3.1** *The CTC and its experts stand ready to provide further clarification to the Government of Mauritius on any of the matters raised in this letter. The experts can be contacted through Ms. Simone Dempsey (telephone: +1 212 457 1081 or +1 212 457 1266; e-mail: dempsey@un.org or etc@un.org)*
- 3.2** *The CTC would be grateful to receive further information on the questions and comments raised in this letter from the Government of Mauritius; by (3 months of the date of this outgoing letter). As with previous reports, it is the intention of the CTC to circulate the further report as a document of the Security Council. It is open to the Government of Mauritius, if desired, to submit a confidential annex to the report for the attention of the CTC members only.*
- 3.3** *The CTC may, in a future stage of its work, have further comments or questions for the Government of Mauritius arising from other aspects of the Resolution. It would be grateful to be kept informed of all relevant developments regarding the implementation of the Resolution by the Government of Mauritius.*